

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 428 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHAVDA BALVANTBHAI RAMSING

Versus

RATHOD SHAHBHAIBHAI DABHAIBHAI

Appearance:

MR HM PARIKH for Petitioners

MR MURALI N DEVNANI for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 20/04/99

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. M.N. Devnani, learned advocate appearing for the respondent (original plaintiff).

2. While reading the judgment of the appellate Court it could be noticed that application for amendment moved by the respondent-plaintiff before the trial Court is pending determination. By that application the plaintiff

has prayed for amendment in the description of the property, which is the subject matter of the suit. Property that was described originally was block no. 54 and now sought to be described is block no. 53. Unless that amendment is granted, the appellate Court could not have decided the appeal on the assumption that it was block no. 53 in respect of which the suit was filed and the injunction application was moved. Either the appellate Court could have waited for amendment application being decided or could have directed the trial Court to decide the amendment application at an early date so that the appeal could be decided while focussing attention on the subject matter which was in fact the property in dispute. In that view of the matter, on this limited ground, this revision application is required to be allowed.

Impugned decision dated 15/2/1999 rendered by the

Ld. 3rd Extra Assistant Judge, Kheda at Nadiad in Civil Misc. Appeal No. 121 of 1995 is hereby set aside reviving the appeal before the learned appellate Judge with a direction to the trial Court that the pending amendment application shall be decided as expeditiously as possible, preferably within two months from the date of receipt of writ of this direction. The learned appellate Judge will decide the appeal thereafter. It is made clear that after the amendment application is decided by the trial Court, the appellate Court will hear the appeal afresh on merits.

Rule made absolute in the aforesaid terms only
with no order as to cost.

PVR. * * *